

# **CHAPTER 1**

## **FINANCIAL INSTITUTIONS**

### **Article 8**

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## **ARTICLE 8**

### **MULTIPLE-PARTY ACCOUNTS**

#### **7-1-810. Definitions.**

As used in this article, the term:

(1) "Account" means a contract of deposit of funds between a depositor and a financial institution and includes a checking account, savings account, certificate of deposit, share account, and other like arrangements.

(2) "Beneficiary" means a person named in a trust account as one for whom a party to the account is named as trustee.

(3) "Financial institution" means a savings and loan association as defined in paragraph (31) of Code [Section 7-1-4](#) or any financial institution as defined in paragraph (21) of Code [Section 7-1-4](#).

(4) "Joint account" means an account payable on request to one or more of two or more parties, whether or not mention is made of any right of survivorship.

(5) "Multiple-party account" means any of the following types of account:

(A) A joint account;

(B) A P.O.D. account; or

(C) A trust account.

It does not include accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes; accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, or charitable or civic organization; or a regular fiduciary or trust account where the relationship is established other than by deposit agreement.

(6) "Net contribution" of a party to a multiple-party account as of any given time means the sum of all deposits thereto made by or for him, less all withdrawals made by or for him which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. The term includes, in addition, any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question.

(7) "Party" means a person who, by the terms of the account, has a present right, subject to request, to payment from a multiple-party account. A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to him by reason of his surviving the original payee or trustee. Unless the context otherwise requires, it includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party. It also includes a person identified as a trustee of an account for another, whether or not a beneficiary is named; but it does not include any named beneficiary unless he has a present right of withdrawal.

(8) "Payment" of sums on deposit includes withdrawal, payment on check or other directive of a party, and any pledge of sums on deposit by a party and any setoff or reduction or other disposition of all or part of an account pursuant to a pledge.

(9) "Proof of death" includes a death certificate or official record which is prima-facie proof of death.

(10) "P.O.D. account" means an account payable on request to one person during his lifetime and on his death to one or more P.O.D. payees or to one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. payees.

(11) "P.O.D. payee" means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one or more persons.

(12) "Request" means a proper request for withdrawal or a check or order for payment which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but, if the financial institution conditions

withdrawal or payment on advance notice, for purposes of this article the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.

(13) "Sums on deposit" means the balance payable on a multiple-party account, including interest, dividends, and, in addition, any deposit life insurance proceeds added to the account by reason of the death of a party.

(14) "Trust account" means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account; it is not essential that payment to the beneficiary be mentioned in the deposit agreement. A trust account does not include a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account or a fiduciary account arising from a fiduciary relation such as attorney-client.

(15) "Withdrawal" includes payment to a third person pursuant to check or other directive of a party.

(Code 1933, 41A-3801, enacted by Ga. L. 1976, p. 1388, 8.)

#### **7-1-811. Applicability of provisions as to beneficial ownership and protection of financial institutions.**

Code [Sections 7-1-812](#) through [7-1-814](#), concerning beneficial ownership as between parties or as between parties and P.O.D. payees or beneficiaries of multiple-party accounts, are relevant only to controversies between those persons and their creditors and other successors and have no bearing on the power of withdrawal of these persons as determined by the terms of account contracts. Code [Sections 7-1-816](#) through [7-1-821](#) govern the liability of financial institutions which make payments pursuant thereto and their setoff rights.

(Code 1933, 41A-3802, enacted by Ga. L. 1976, p. 1388, 8.)

#### **7-1-812. Ownership during lifetime.**

(a) A joint account belongs, during the lifetime of all parties, to the parties in proportion to the net contributions by each to the sums on deposit, unless there is clear and convincing evidence of a different intent.

(b) A P.O.D. account belongs to the original payee during his lifetime and not to the P.O.D. payee or payees; if two or more parties are named as original payees, during their lifetimes the account belongs to them in proportion to the net contributions by each to the sums on deposit, unless there is clear and convincing evidence of a different intent.

(c) Unless a contrary intent is manifested by the terms of the account or the deposit agreement or there is other clear and convincing evidence of an irrevocable trust, a trust account belongs beneficially to the trustee during his lifetime; and, if two or more parties are named as trustee on the account, during their lifetimes the account belongs to them in proportion to the net contributions by each to the sums on deposit, unless there is clear and convincing evidence of a

different intent. If there is an irrevocable trust, the account belongs beneficially to the beneficiary.

(Code 1933, 41A-3803, enacted by Ga. L. 1976, p. 1388, 8.)

#### **7-1-813. Rights of survivorship.**

(a) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent, unless there is clear and convincing evidence of a different intention at the time the account is created. If there are two or more surviving parties, the respective ownership of each during his lifetime shall be in proportion to his previous ownership interests under Code [Section 7-1-812](#), augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before his death; and the right of survivorship continues between the surviving parties.

(b) If the account is a P.O.D. account, on death of the original payee or of the survivor of two or more original payees, any sums remaining on deposit belong to the P.O.D. payee or to the P.O.D. payees in equal portions if surviving or to the survivor of them if one or more die before the original payee; if two or more P.O.D. payees survive, there is no right of survivorship in event of death of a P.O.D. payee thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(c) If the account is a trust account, on the death of the trustee or the survivor of two or more trustees, any sums remaining on deposit belong to such person or persons named as beneficiaries who survive the death of the trustee or the survivor of two or more trustees, unless there is clear and convincing evidence of a contrary intent. If two or more beneficiaries survive:

(1) They receive equal portions of the sums contained in the trust account; and

(2) There is no right of survivorship in event of death of any beneficiary thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(d) In other cases, the death of any party to a multiple-party account has no effect on beneficial ownership of the account other than to transfer the rights of the decedent as part of his estate.

(e) A right of survivorship arising from the express terms of the account or under this Code section, a beneficiary designation in a trust account, or a P.O.D. payee designation cannot be changed by will.

(Code 1933, 41A-3804, enacted by Ga. L. 1976, p. 1388, 8.)

#### **7-1-814. Changing terms of account.**

The provisions of Code [Section 7-1-813](#) as to rights of survivorship are determined by the form of the account at the death of a party. Once established, the terms of a multiple-party account can be changed only:

(1) By closing the account and reopening it under different terms; or

(2) By presentation to the financial institution of a modification agreement in a form satisfactory to the financial institution and signed by all parties with a present right of withdrawal.

(Code 1933, 41A-3805, enacted by Ga. L. 1976, p. 1388, 8.)

#### **7-1-815. Survivorship transfers nontestamentary.**

Any transfers resulting from the application of Code [Section 7-1-813](#) are effective by reason of the account contracts involved in this article and are not to be considered as testamentary.

(Code 1933, 41A-3806, enacted by Ga. L. 1976, p. 1388, 8.)

#### **7-1-816. Financial institution protection - Multiple-party accounts authorized; payment on signature of one party; inquiry as to deposits or withdrawals not required.**

Financial institutions may enter into multiple-party accounts to the same extent that they may enter into single-party accounts. Any multiple-party account may be paid, on request, to any one or more of the parties. For purposes of establishing net contributions, a financial institution shall not be required to inquire as to the source of funds received for deposit to a multiple-party account or to inquire as to the proposed application of any sum withdrawn from an account.

(Code 1933, 41A-3807, enacted by Ga. L. 1976, p. 1388, 8.)

#### **7-1-817. Financial institution protection - Payment from joint account after death or disability.**

Any sums in a joint account may be paid, on request, to any party without regard to whether any other party is incapacitated or deceased at the time the payment is demanded; but payment may not be made to the personal representative or heirs of a deceased party unless proof of death is presented to the financial institution showing that the decedent was the last surviving party or unless there is no right of survivorship under Code [Section 7-1-813](#).

(Code 1933, 41A-3808, enacted by Ga. L. 1976, p. 1388, 8.)

#### **7-1-818. Financial institution protection - Payment of P.O.D. account.**

Any P.O.D. account may be paid, on request, to any original party to the account. Payment may be made, on request, to the P.O.D. payee or to the personal representative or heirs of a deceased P.O.D. payee upon presentation to the financial institution of proof of death showing that the P.O.D. payee survived all persons named as original payees. Payment may be made to the personal representative or heirs of a deceased original payee if proof of death is presented to the financial institution showing that his or their decedent was the survivor of all other persons named on the account either as an original payee or as P.O.D. payee.

(Code 1933, 41A-3809, enacted by Ga. L. 1976, p. 1388, 8.)

### **7-1-819. Financial institution protection - Payment of trust account.**

Any trust account may be paid, on request, to any trustee. Payment may be made to the personal representative or heirs of a deceased trustee if proof of death is presented to the financial institution showing that his or their decedent was the survivor of all other persons named on the account either as trustee or beneficiary, unless:

(1) The financial institution, with respect to a trust account as to which there is only one trustee, has received written notice, in a form satisfactory to the financial institution, that the beneficiary has a vested interest not dependent upon his surviving the trustee; or

(2) The financial institution, with respect to a trust account as to which there is more than one trustee, has been provided with a copy of an agreement or resolution of all trustees, in a form satisfactory to the financial institution, to the effect that the beneficiary has a vested interest not dependent upon his surviving the trustees.

Payment may be made, on request, to a beneficiary or beneficiaries or the heirs or representative of a beneficiary or beneficiaries upon presentation to the financial institution of proof of death showing that the beneficiary or beneficiaries survived all persons named as trustees.

(Code 1933, 41A-3810, enacted by Ga. L. 1976, p. 1388, 8.)

### **7-1-820. Financial institution protection - Discharge upon proper payment; notice not to permit withdrawals.**

Payment made pursuant to Code [Section 7-1-816](#), [7-1-817](#), [7-1-818](#), or [7-1-819](#) discharges the financial institution from all claims for amounts so paid, whether or not the payment is consistent with the beneficial ownership of the account as between parties, P.O.D. payees, or beneficiaries or their successors. The protection here given does not extend to payments made after a financial institution has received written notice from any party able to request present payment to the effect that withdrawals in accordance with the terms of the account should not be permitted.

(Code 1933, 41A-3811, enacted by Ga. L. 1976, p. 1388, 8.)

### **7-1-821. Financial institution protection - Right to setoff.**

Without qualifying any other statutory right to setoff or lien and subject to any contractual provision, if a party to a multiple-party account is indebted to a financial institution, the financial institution has a right to setoff against the account in which the party has or had immediately before his death a present right of withdrawal. The amount of the account subject to setoff is that proportion to which the debtor is or was immediately before his death beneficially entitled and, in the absence of proof of net contributions, an equal share with all parties having present rights of withdrawal.

(Code 1933, 41A-3812, enacted by Ga. L. 1976, p. 1388, 8.)